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**Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21**

**Fiji\***

The present report is a summary of 10 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* The present document was not edited before being sent to United Nations translation services.



## Information provided by stakeholders

### A. Background and framework

#### 1. Scope of international obligations<sup>2</sup>

1. Noting that Fiji accepted seven recommendations<sup>3</sup> to ratify core human rights conventions and optional protocols but had not done so,<sup>4</sup> Amnesty International (AI) recommended ratification and implementation of ICCPR, ICCPR-OP1, CRPD, CAT, OP-CAT, ICESCR, OP-ICESCR and OP-CEDAW.<sup>5</sup>

#### 2. Constitutional and legislative framework

2. AI acknowledged the steps Fiji had taken to comply with UPR recommendations<sup>6</sup> by lifting the Public Emergency Regulations (PER) in January 2012. Regrettably, PER was replaced with a Public Order Amendment Decree (POAD), which continued to restrict the rights to freedoms of expression, association and peaceful assembly.<sup>7</sup> Joint Submission 1 (JS1) alleged that the POAD included a broad definition of “terrorism”, which could be employed to charge trade unions for carrying out any campaign to pressure the Government to change policy.<sup>8</sup>

3. JS3 reported that since the 2006 coup, Fiji had been ruled by a military Government headed by Prime Minister Bainimarama.<sup>9</sup> Law-making had been by presidential decree, with decrees passed at short notice and without public debate or scrutiny.<sup>10</sup> Seven submissions,<sup>11</sup> including that of Fiji Women’s Rights Movement (FWRM) indicated that Fiji had issued a number of decrees that either infringed or violated fundamental human rights,<sup>12</sup> which JS3<sup>13</sup> suggested was in direct conflict with seven accepted recommendations.<sup>14</sup> Additionally, JS3 reported that the transitional provisions contained in the 2013 Constitution, prevented any legal challenge against decrees. As a result, there was allegedly no legal method of challenging actions and decisions of the Government.<sup>15</sup>

4. In accordance with seven accepted recommendations from the first UPR cycle,<sup>16</sup> JS3 reported on some positive steps taken by Fiji, as a Constitution had been promulgated and elections would be held in September 2014.<sup>17</sup> However, concerns about the Constitutional process were raised in five submissions.<sup>18</sup> FWRM reported that a constitution-making process began in March 2012. A Constitution Commission was appointed, headed by Yash Ghai. The Fiji Women’s Forum mobilized women from all around the country to make submissions. Their contributions were made to the Constitution Commission, which then produced a comprehensive, people-centred draft that contained many positive provisions for women, and strong human rights protections. The Government objected to the Ghai Commission draft.<sup>19</sup> JS3 reported that the Government released its own draft constitution on 31 March 2013. Deviating from the Fiji Constitutional Process (Constituent Assembly and Adoption of Constitution) Decree 2012, and contrary to recommendations made in the first UPR cycle,<sup>20</sup> the draft was not presented to a constituent assembly and the public was asked to contribute their comments instead. The period for public submissions was far too short to enable real participation.<sup>21</sup> The 2013 Constitution was promulgated in September.<sup>22</sup>

5. Seven submissions<sup>23</sup> commented critically on the contents of the Constitution. According to JS3, although the Bill of Rights contained in the Constitution was comprehensive, it was silent on the rights of women,<sup>24</sup> and weakened by “severe limitations on many rights”, including on account of the “claw-back clause”, by which Governments would simply need to show that a limitation was “reasonable” (s.6.5.c).<sup>25</sup> AI also noted that rights were subject to limitations contained in subsidiary laws.<sup>26</sup> JS2 expressed concern that the Constitution vested too much power in the offices of the Prime Minister and the

Attorney-General, as they controlled nearly all appointments to the judiciary and independent commissions.<sup>27</sup>

6. Human Rights Watch (HRW) reported that the Constitution granted “absolute and unconditional immunity” for actions from the 2006 coup d’état until the new parliament officially started functioning. The Constitution reinstated immunity from prosecution in relation to the 1987 coup.<sup>28</sup>

7. HRW pointed out that the Constitution explicitly provided that the immunity provisions shall never be revoked, altered, or made subject to judicial review.<sup>29</sup> JS3 further reported that the Constitutional amendment process was difficult and required super-majorities in Parliament and a referendum.<sup>30</sup>

8. JS3 recommended that Fiji (i) remove the claw-back clause that undermined the entire Bill of Rights; (ii) involve Parliament in appointing judges and ‘independent’ commissions and offices; and (iii) allow flexibility in the amendment procedure.<sup>31</sup> AI recommended that Fiji review the Constitution and domestic laws to ensure that human rights were fully protected, victims had access to remedies, and no restrictions might be placed on human rights, except those consistent with international human rights law and standards.<sup>32</sup>

### **3. Institutional and human rights infrastructure and policy measures**

9. JS3 indicated that the 2009 Human Rights Commission Decree had not been revoked and the institution had operated without a chairperson or commissioners since 2009. Under the 2013 Constitution, the President, after consultation with the Prime Minister, would appoint the chairperson and other members of the newly named Fiji Human Rights and Anti-Discrimination Commission (FHRADC). While the FHRADC could take cases to court, it was unable to challenge the legality or validity of decrees,<sup>33</sup> or investigate complaints relating to the abrogation of the 1997 Constitution, actions of the government, or the 2006 coup. According to JS3, that did not align with six UPR recommendations, five of which were accepted<sup>34</sup> to reinstate the full independence of the Human Rights Commission and clearly contravened the Paris Principles.<sup>35</sup>

## **B. Cooperation with human rights mechanisms**

10. HRW and JS3 noted that despite assurances contained in eight accepted recommendations<sup>36</sup> no UN special procedures had been permitted to visit Fiji since 2007.<sup>37</sup> HRW recommended that Fiji issue an open invitation to all special procedures, and swiftly facilitate the visits of those which had requested access, and allow representatives of the International Labour Organization, and other international observers, to visit.<sup>38</sup>

## **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **1. Equality and non-discrimination**

11. According to JS3, women continued to be suppressed in Fiji and were underrepresented at all levels of decision-making, including the political arena, which was contradictory to the UPR accepted recommendation<sup>39</sup> to combat discrimination against women.<sup>40</sup> According to International Centre for Advocates Against Discrimination (ICAAD), Fiji also had one of the highest rates of violence against women in the world.<sup>41</sup> FWRM also pointed out that, despite Fiji ranking at the bottom of the table for women in politics, all special provisions for increasing women in decision-making were removed in the 2013 Constitution.<sup>42</sup> FWRM recommended that Fiji ensure that the 2013 Constitution

and all national legislation be made compliant with the Convention on the Elimination of All Forms of Discrimination against Women.<sup>43</sup>

12. Minority Rights Group (MRG) recommended that the Government revise its legislation on discrimination and reflect it in a single comprehensive law.<sup>44</sup> Related recommendations were made by ICAAD on prohibiting racist organizations.<sup>45</sup>

13. MRG, referring to the results of its research,<sup>46</sup> reported that inter-ethnic relations were affected by discrimination in employment, particularly regarding the employment of Indo-Fijians in the civil service.<sup>47</sup>

14. ICAAD alleged that antagonism against LGBTIQ groups persisted as law officials revoked a permit for a march in May 2012 and that discrimination persisted with reported homophobic bullying in schools.<sup>48</sup> While the 2013 Constitution prohibited discrimination based on sexual orientation in employment, there were no such protections in other areas of social and political life. Furthermore, since 2002, the Marriage Act expressly prohibited same-sex marriage.<sup>49</sup> ICAAD recommended that Fiji strengthen legislative protections against discrimination based on sexual orientation.<sup>50</sup>

## **2. Right to life, liberty and security of the person**

15. AI stated that four deaths in custody were reported at the time of the last UPR, and that in only one of those cases had the perpetrators been charged and sentenced.<sup>51</sup>

16. Referring to five accepted UPR recommendations,<sup>52</sup> HRW reported that the Government had accepted to render legislation compliant with international standards against torture and invite/facilitate a visit by the Special Rapporteur on the matter.<sup>53</sup> While torture, degrading treatment and punishment were prohibited by the 2013 Constitution and the Crimes Decree, JS3 noted that POAD increased the powers of the Government to use whatever force deemed necessary to enforce public order, creating a dangerous culture of abuse of power.<sup>54</sup>

17. HRW reported that since 2009, two notable cases of torture against escaped prisoners had called Fiji's commitment to ending torture and ill-treatment into serious question.<sup>55</sup> AI alleged that one escaped prisoner was beaten so severely that his leg had to be amputated.<sup>56</sup> According to AI, the authorities' failure independently to investigate several new allegations of torture or ill-treatment by the security forces contributed to a culture of impunity.<sup>57</sup>

18. HRW recommended that Fiji order the Criminal Investigation Department of the police to conduct an independent investigation into allegations of torture and ill-treatment of persons held in police custody, and hold accountable those found responsible; end excessive use of force by the police or military and ensure that any and all incidents where excessive force had been used were investigated, and perpetrators prosecuted to the full extent of the law.<sup>58</sup> AI recommended that Fiji fully co-operate with the Special Rapporteur on torture, including by providing him with a copy of all investigation records and medical reports relating to the torture and ill treatment of prisoners.<sup>59</sup>

19. AI also reported that trade union leaders Kenneth Zinck, Daniel Urai and Felix Anthony had complained to the police of intimidation and harassment, including physical violence, by the authorities since 2011. Police had allegedly refused to investigate Felix Anthony's complaint against the Prime Minister.<sup>60</sup> Additionally, JS3 referred to reports that human rights defenders from various civil society organizations, media outlets, union leaders and civilians had been forcibly transferred and held against their will in military camps for up to two days. They had allegedly been intimidated and questioned about seditious comments against the Government. Although the situation had seemingly improved, such incidents had continued to occur.<sup>61</sup> JS3 highlighted that such incidents were in direct conflict with two accepted UPR recommendations,<sup>62</sup> including on ensuring

independent investigations and that those in detention had the right to habeas corpus and due process.<sup>63</sup>

20. ICAAD and Fiji Women's Crisis Centre (FWCC) drew attention to the shortcomings of legislation, its implementation and the judgements of courts, which JS3<sup>64</sup> alleged did not adequately address violence against women as recommended<sup>65</sup> in the first UPR cycle.<sup>66</sup> ICAAD reported that prosecutors, instead of utilizing the particularized Domestic Violence Decree, had used the generic Crimes Decree to charge perpetrators of VAW with "common assault." Sentences were often mitigated or suspended, as judges took into consideration that the perpetrator was the "main income earner", and bail was granted without a concomitant restraining order to protect survivors of VAW.<sup>67</sup> Judges also used reconciliation (or *bulubulu*) as a factor in mitigating the sentence. Despite the "No Drop" policy, law enforcement officers still sought to reconcile the parties in order to reduce overall crime rates in their region.<sup>68</sup> FWCC stated that Domestic Violence Decree was gender neutral and allegedly manipulated by men to obtain residential Domestic Violence Restraining Orders (DVROs) which removed their wives or partners from the matrimonial home.<sup>69</sup> Police attitudes discouraged reporting<sup>70</sup> and FWCC alleged that there was re-victimization of women who made complaints to the police.<sup>71</sup>

21. ICAAD recommended that Fiji create guidelines that formally prohibit the use of reconciliation (traditional form or otherwise) as a mitigating factor for SGBV cases and permit the use of aggravating factors like the age of the victim or the threat of violence. It was imperative that Fiji also promote consistency in prosecutions and convictions of perpetrators by providing adequate funding for existing Sexual Offences Units and training local law enforcement officials who investigate cases of SGBV.<sup>72</sup> FWCC recommended that the Government adopt gender specific domestic violence legislation;<sup>73</sup> amend the Crimes Decree, which allowed reasonable belief in age as a defence to consensual sex with children between the ages of 13 and 16;<sup>74</sup> impose a total ban on requirement of proof of resistance in sexual assault cases;<sup>75</sup> change legal aid rules to allow representation of women in DVRO and Family Law cases even where the perpetrator (Husband) was represented by Legal Aid in criminal proceedings.<sup>76</sup>

22. Given the alarming rates of child trafficking, JS3 reported that a more holistic approach was required,<sup>77</sup> as requested by the International Labour Organization, and referred to an accepted UPR recommendation.<sup>78</sup> The Government had made efforts to eliminate child sex and labour trafficking, although there had been insufficient progress in implementing formal procedures widely, and proactively identifying victims of trafficking among vulnerable populations. Additionally, the Child Welfare Decree required mandatory reporting of incidents of child abuse by police, teachers and health and social welfare workers, although it was unclear if this were practised.<sup>79</sup>

23. Although the Ministry of Education had banned corporal punishment in schools, JS3 reported that it was still widely practiced.<sup>80</sup> Global Initiative to End All Corporal Punishment of Children recommended that Fiji undertake law reform to achieve legal clarity that all forms of corporal punishment, without exception are prohibited, including through the repeal of the right of parents and others "to administer reasonable punishment".<sup>81</sup>

### 3. Administration of justice, including impunity, and the rule of law

24. HRW stated that the Government had continually failed to uphold the rule of law and had encroached on the independence of the judiciary.<sup>82</sup> JS3 reported that the Prime Minister and the Attorney-General had significant control over the judicial branch, including all the independent legal officers and the Judicial Services Commission (JSC), which further politicized the judiciary. Those measures were reportedly contrary to nine accepted UPR recommendations.<sup>83</sup> The judicial officers removed in 2009 were not restored despite two recommendations<sup>84</sup> made in the first UPR cycle.<sup>85</sup>

25. AI continued to be concerned at a pattern of interference in the work of the judiciary. In September 2012, a former Court of Appeal Judge, Justice William Marshall QC, claimed interference by the Attorney-General in the conduct of a number of specific cases.<sup>86</sup>

26. AI recommended, *inter alia*, that the executive immediately cease all interference with the independence of the judiciary and lawyers, including the Fiji Law Society; and review the Constitution, decrees and other laws to ensure that all judges had security of tenure.<sup>87</sup> HRW recommended that following the elections, the newly elected Government should implement key reforms to provide for a judiciary independent of the Government and the military.<sup>88</sup> JS3,<sup>89</sup> AI<sup>90</sup> and HRW<sup>91</sup> recommended that Fiji immediately welcome the Special Rapporteur on the independence of judges and lawyers to Fiji, in accordance with the commitment<sup>92</sup> given in the first UPR cycle.

27. AI reported that the Constitution provided immunity from prosecution for military, police and government officials who committed human rights violations, including crimes under international law such as torture.<sup>93</sup> HRW reported that under the immunity provisions compensation would not be paid for any offences falling within their remit.<sup>94</sup> According to JS3, the breadth of the immunity provisions seemingly exceeded the permissible scope of amnesties under international law.<sup>95</sup> AI recommended that Fiji repeal all immunity provisions, ensuring no immunity for perpetrators of serious human rights violations.<sup>96</sup>

28. FWRM also reported on its concern at a perceived lack of independence and credibility of law enforcement bodies, particularly with the militarization of the police force.<sup>97</sup> FWCC recommended an end to militarization of the Police Force.<sup>98</sup>

29. JS3 reported that the Government failed publically to disclose full details of the national budget and civilians were inhibited from being able to participate fully in the budget process.<sup>99</sup>

#### **4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

30. JS3 noted that in accordance with the 2013 Constitution, Fiji was a secular state. While some domestic religious activity had been restricted, JS3 noted that the restriction on annual meetings of Fiji's Methodist Church had now been partially lifted and conditional permits granted. The police had also ceased their practice of requiring permits for religious worship at Hindu temples that were not registered.<sup>100</sup> However, the police force had not yet been provided with training aimed at ensuring respect for the right to freedom of religion in accordance with an accepted UPR<sup>101</sup> recommendation.<sup>102</sup> ICAAD recommended that Fiji institute educational initiatives to combat hostility towards non-mainstream religions.<sup>103</sup>

31. AI reported that POAD, the Media Industry Development Decree 2010 (the Media Decree), the Crimes Decree and the Constitution disproportionately restricted and criminalized the rights to freedom of expression, association and peaceful assembly.<sup>104</sup>

32. AI referred to a recent report by the Pacific Media Assistance Scheme which stated that 'a culture of self-censorship had become entrenched in media reporting as a result of confusion arising from the implementation of media decrees'.<sup>105</sup> JS3 also noted that, while Government censors had been removed from newsrooms, censorship in the media was still a serious concern. The media was reportedly policed by repressive policies introduced by the Media and Television (Amendment) Decrees.<sup>106</sup> According to JS3, those decrees were in direct conflict with seven accepted<sup>107</sup> UPR recommendations.<sup>108</sup> Reporting on the results of a national survey of the Fiji media, JS2 stated that, under the Media Decree, power had been delegated to the Media Industry Development Authority (MIDA), which had an ongoing responsibility to censor material that was considered threatening to the public interest or order. MIDA had the power to penalize journalists and media companies that published content considered unsuitable.<sup>109</sup> Additionally, JS3 alleged that, under the Television Decree, short-term licences were often awarded to media groups rendering them

dependant on continued approval from the Government to operate, which seriously compromised the ability of civilians to make fully informed decisions in the lead up to elections.<sup>110</sup> JS3 further highlighted that the State Proceedings (Amendment) Decree 2012 granted immunity to government officials in respect of any statements made to the media. As such, defamatory statements made by the Government, JS3 alleged, could be published without retribution.<sup>111</sup>

33. JS2 also reported that the Constitution did not give clear enough guarantees of freedom of expression, as such rights may be limited, including to curb “ill will between ethnic or religious groups”. The right of citizens to be free from “hate speech”, whether directed against individuals or groups was also endorsed.<sup>112</sup> JS2 alleged that many journalists continued to censor themselves for fear of judicial reprisals if they criticized the Government when covering its activities.<sup>113</sup> HRW highlighted that the courts had used broadly defined contempt provisions to limit freedom of expression,<sup>114</sup> with FWRM reporting that the authorities particularly clamped down on discussions referring to the independence of the judiciary.<sup>115</sup> In that regard, specific reference was made to contempt of court proceedings against the media (Fiji Times) and human rights advocates (Rev. Akuila Yabaki and the Citizens’ Constitutional Forum) by JS2,<sup>116</sup> AI,<sup>117</sup> FWRM,<sup>118</sup> HRW<sup>119</sup> and JS3.<sup>120</sup>

34. JS2 reported while there had been more vibrant debate in online commentaries and letters to the editors in the Fiji national press in recent months in anticipation of the election, there was still a climate of self-censorship that had prevailed for eight years.<sup>121</sup> FWCC alleged that its press releases on such issues as human rights abuses, Government corruption and abuse of political and government authority were reportedly routinely ignored by the mainstream media.<sup>122</sup>

35. JS2 recommended that Fiji: significantly encourage participation in public debate without hindrance; revoke the Media Decree and its draconian punitive measures against journalists, editors and media organizations and adopt a self-regulatory media framework encouraging a free press; and encourage international media reporting and scrutiny by lifting bans on individual journalists.<sup>123</sup> JS2 recommended enactment of a freedom of information law with some urgency.<sup>124</sup>

36. JS3 reported that under POAD the right to public assembly was seriously limited and the Government could refuse to grant a permit for any meeting or peaceful protest, which was contrary to<sup>125</sup> five accepted UPR recommendations.<sup>126</sup> According to FWRM, there had been widespread abuse of public order related regulations, with unreasonable and unclear processes and arbitrary cancellation of permits for peaceful assembly.<sup>127</sup> The authorities had allegedly targeted specific organizations, including FWRM, from meeting.<sup>128</sup> HRW reported that in September 2013, a group of 30 people protested ahead of the presidential assent to the new Constitution. The police arrested 14 people for gathering without a permit, but released them after a couple of hours. In November 2013, police arrested 14 protestors because they were wearing t-shirts calling on the Government to make the budget public.<sup>129</sup> JS3 noted, inter alia, that in March 2013, police revoked the permit for the International Women’s Day ‘Reclaim the Night’ march.<sup>130</sup> FWRM pointed out that it was the first time in years that Suva did not have such an event.<sup>131</sup>

37. JS3 stated that on numerous occasions, protestors calling for greater union rights had been arrested, questioned and intimidated.<sup>132</sup> HRW reported that in December 2013, resort workers orchestrated a peaceful strike to protest against their current work conditions, six unionists were charged and arrested in connection with the incident.<sup>133</sup> HRW<sup>134</sup> and AI alleged that in 2013, military officers were sent to the Lautoka Sugar Mill during a vote on industrial action in order to intimidate the workers.<sup>135</sup> AI reported that Daniel Urai was arrested and charged with an unlawful strike in January 2014.<sup>136</sup>

38. Despite Fiji accepting four recommendations to ensure the protection of human rights defenders,<sup>137</sup> AI stated that a pattern of abuse and intimidation had continued since

the 2010 review.<sup>138</sup> AI referred to reports: of people being threatened and detained by the military or police for comments made on social media; and of phone-tapping and monitoring of human rights activists' Facebook activity.<sup>139</sup> HRW recommended that Fiji immediately cease the harassment and arbitrary arrest of its citizens, particularly human rights defenders, journalists, labour organizers, and opposition party members; and publicly declare and ensure that civil society organizations can operate free of government interference.<sup>140</sup> HRW recommended revision of the Constitution, and all laws, to ensure that the rights of individuals and organizations to defend and promote human rights were protected, including the right to peacefully criticize and protest at Government policies vis-a-vis public protest assemblies and labour strikes,<sup>141</sup> with AI recommending particular vigilance in relation to minority groups and activists advocating for economic, social and cultural rights, who were at greater risk of attacks and stigmatization.<sup>142</sup> JS3 recommended that the Government welcome the Special Rapporteurs on freedom of association and assembly and on human rights defenders, in accordance with the commitment<sup>143</sup> made in the first UPR cycle.<sup>144</sup>

39. AI was deeply concerned at criminal charges or court proceedings against critics of the Government and at politically motivated charges allegedly pursued by prosecutors. They included charges against former Prime Minister Qarase relating to events of more than 20 years ago, charges against former politician Mere Samisoni for inciting political violence, sedition charges against union leader Daniel Urai, sedition charges against five graffiti activists for spreading anti-Government messages, and criminal charges against human rights lawyer Imrana Jalal relating to a \$20 restaurant licence. In a number of those cases, travel restrictions formed part of bail conditions.<sup>145</sup> HRW recommended that Fiji review all cases of people facing criminal investigations on account of exercising their rights to freedom of expression, assembly, or association, and discontinue proceedings against them.<sup>146</sup>

40. JS3 indicated that in accordance with six accepted UPR recommendations,<sup>147</sup> Fiji had taken some positive steps towards restoring democracy.<sup>148</sup> In March 2014 the interim Prime Minister stepped down as Commodore from the military and announced he would be campaigning with a new political party.<sup>149</sup> While universal suffrage was granted under the 2013 Constitution, FWRM noted that the Political Parties Decree (PPD) of 2013 created very difficult hurdles for the registration of political parties, and along with the Constitution, permitted severe limitations of human rights for the purposes of the 'orderly conduct of elections'.<sup>150</sup> AI reported that PPD excluded trade union officials from being a member of or holding office in a political party, and of expressing support for a political party.<sup>151</sup> While, AI noted that four political parties had registered under PPD,<sup>152</sup> JS3 also reported that the electoral laws had not yet been published, which had inhibited registered parties campaigning and limited civil society organizations from participating in public education and initiatives.<sup>153</sup>

41. HRW recommended that Fiji review voter registration lists to correct any irregularities and ensure that all eligible persons were able to exercise their right to vote; ensure that civil society was provided access and protection to participate in and monitor the conduct of the elections; and invite international, independent election observers to monitor the election.<sup>154</sup> AI recommended that Fiji ensure that no political parties were discriminated against in relation to their formation, ability to access funding, and to exercise their rights to freedom of expression and peaceful assembly, including through peaceful demonstrations and access to the media.<sup>155</sup>

42. FWRM recommended that Fiji promote women's participation through enabling actions such as temporary special measures and remove restrictive policies or conditions deterring their involvement.<sup>156</sup> MRG, referring to the results of its research,<sup>157</sup> stated that most Indo-Fijian respondents allegedly reported that, although they were consulted, decision-making lay largely in the hands of iTaukei (indigenous Fijians). It was also alleged that the Government was predominantly iTaukei and Muslim.<sup>158</sup> Referring to the accepted



UPR recommendation on engaging in a “genuine dialogue with all ethnic communities”,<sup>159</sup> ICAAD recommended increased transparency in the political process to allow for participation by minorities.<sup>160</sup>

## 5. Right to work and to just and favourable conditions of work

43. With reference to an accepted recommendation,<sup>161</sup> ICAAD reported on the alarming probability of women facing harassment in the workplace<sup>162</sup> and voiced concerns regarding women often working in lower-wage sectors often non-unionized.<sup>163</sup> ICAAD recommended that Fiji make sexual harassment a punishable crime, enforce maternity leave pay, and institute a minimum wage that afforded women an opportunity to rise above poverty.<sup>164</sup>

44. Seven submissions provided information on recent developments relating to workers’ rights.<sup>165</sup> JS1 reported that ILO supervisory mechanisms had detailed extremely serious and systematic violations of the right to freedom of association, from harsh beatings, threats, arrests on false charges and constant surveillance of trade unionists to the near complete elimination of labour rights for workers in the public sector and private sector ‘essential industries’. JS1 stated that an ILO direct contacts mission sent to verify the numerous allegations made by Fijian workers was reportedly ejected from Fiji in 2012.<sup>166</sup> HRW indicated that the authorities also prevented the ILO from completing a mission in 2013.<sup>167</sup>

45. AI reported that the Essential National Industries (Employment) Decree 2011 (ENID) restricted collective bargaining rights, severely curtailed the right to strike, banned overtime payments and made existing collective agreements for workers in key sectors of the economy void.<sup>168</sup> FWCC indicated that ENID restricted the rights of workers in such industries as tourism and banking.<sup>169</sup> Rather than repealing ENID,<sup>170</sup> JS1 reported that the Essential National Industries & Designated Corporations (Amendment) (No. 2) Regulations 2013, extended the coverage of ENID to the: Pine Industry; Mahogany Industry, Fire Prevention Services Ltd., Local Government; and Airports Fiji Limited.<sup>171</sup> According to FWCC, those industries employed thousands of workers, which included some of the lowest paid and most vulnerable sectors in Fijian society.<sup>172</sup>

46. FWCC recommended that Fiji repeal ENID.<sup>173</sup> AI recommended that Fiji amend current legislation, including relevant parts of the Constitution, or pass new laws to protect workers’ rights in line with international human rights and labour standards, including the right to form and join a trade union, the right to collectively bargain, and the right to seek improved working conditions without penalty or reprisal.<sup>174</sup> AI continued to support the call for a Commission of Inquiry on workers’ rights in Fiji, under Article 26 of the ILO Constitution.<sup>175</sup>

## 6. Right to social security and to an adequate standard of living

47. AI acknowledged Fiji’s compliance with an accepted UPR recommendation<sup>176</sup> by revoking the Pensions and Retirement Allowances Decree 2009 in 2010.<sup>177</sup>

48. JS3 reported that land was a relevant issue for the second UPR. There was no requirement that the Government and proponents consulted with affected land owners and communities in respect of proposed developments, including land and seabed mining. If consultation took place for approval to access land, that was limited to clan members at district level and often directed to male leaders.<sup>178</sup> Communities believed that the current framework for administering idle land did not consider the cultural context of land that was communally owned, which might appear idle but could very well be in use. Land could also appear idle due to conflict among clans.<sup>179</sup>

## 7. Right to health

49. JS3 reported that children exhibited high rates of nutritional deficiency, especially in rural and regional areas. Foods with a high nutritional value were often sold for income

generation. Lack of transportation created difficulty in accessing health centres and medical attention. As such, many children were unable to have full enjoyment of rights recognized in the CRC, as recommended<sup>180</sup> in the first UPR cycle.<sup>181</sup>

50. FWCC indicated that access to reproductive healthcare for women was an ongoing issue for women, mainly due to religious and gender prejudices of healthcare workers. The Government did not permit gender sensitization training of medical workers and needed to work on institutional attitudes as a matter of priority.<sup>182</sup>

## **8. Right to education**

51. JS3 referred to reports that children were not attending school due to lack of access to resources and transport.<sup>183</sup> MRG recommended that the Government carry out an audit of all affirmative action programmes, including scholarships and the Fiji National Provident Fund to identify the extent to which the neediest communities and individuals were receiving assistance. The “home zone” scheme should be reviewed periodically to assess its impact on the quality of education, and on whether schools had become more multi-ethnic. There should be additional state support for rural schools and those in depressed urban localities where educational standards were lowest.<sup>184</sup>

52. MRG also recommended that the Government commission a comprehensive review of school curricula by a body including representatives of all ethnic and religious communities, and propose a new curriculum that included teaching about the histories, cultures, religions and languages of all communities in Fiji, to be rolled out in all regions.<sup>185</sup>

## **9. Minorities and indigenous peoples**

53. ICAAD alleged that Fiji had been dismantling perceived indigenous institutions, including the Great Council of Chiefs of the “iTaukei” Fijians, which reportedly had an impact on their national political influence. However, it had done so without a free and open debate, including among the relevant stakeholders.<sup>186</sup>

54. ICAAD reported that racial divides between indigenous Fijians and Indo-Fijians persisted.<sup>187</sup> According to MRG, land ownership and access to natural resources remained the cause of much inter-ethnic tension. Large numbers of Indo-Fijians, who relied on land leased by indigenous Fijians, had lost their land; and indigenous Fijians feared that their land would be expropriated by the Government for development.<sup>188</sup>

55. According to MRG, ethnic minorities such as Chinese, part Europeans and Rotumans had been largely politically invisible, and socially and economically marginalized and excluded. The majority of part-Europeans, Melanesians and other Pacific Islanders were landless, relatively uneducated, unemployed and poor.<sup>189</sup> MRG alleged that Banaban, Tuvaluan and Melanesian and some Rotuman women in rural areas particularly struggled to participate in decision-making beyond their families and church groups.<sup>190</sup>

## Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

*Civil society**Individual submissions:*

AI	Amnesty International, London, United Kingdom of Great Britain and Northern Ireland;
FWCC	Fiji Women's Crisis Centre, Suva, Fiji;
FWRM	Fiji Women's Rights Movement, Suva, Fiji;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, UK;
HRW	Human Rights Watch, Geneva, Switzerland;
ICAAD	International Center for Advocates Against Discrimination, New York, United States of America;
MRG	Minority Rights Group, London, UK;

*Joint submissions:*

JS1	Joint submission 1 submitted by: International Trade Union Confederation (ITUC), Brussels, (Belgium) on behalf of 175 million workers in 156 countries and territories and 315 national affiliates;
JS2	Joint submission 2 submitted by: Reporters Sans Frontiers (RSF), Paris, France and the Pacific Media Centre (PMC) , Auckland, New Zealand;
JS3	Joint submission 3 submitted by: Citizen's Constitutional Forum, in conjunction with Fiji Women's Rights Movement (FWRM), Fiji Women's Crisis Centre (FWCC), Save the Children, FemLink Pacific, Ecumenical Centre for Research and Advocacy (ECREA), Social Education and Empowerment Program (SEEP), Pacific Network on Globalisation (PANG), Fiji Media Watch (FMW), Pacific Network on Globalisation (PANG), Fiji Public Service Commission (FPSC), and Peoples' Community Network (PCN), Suva, (Fiji).

<sup>2</sup> The following abbreviations have been used in the present document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD.

<sup>3</sup> A/HRC/14/8, paras. 71.1-71.7 and A/HRC/14/8/Add.1, p.2.

<sup>4</sup> AI, p.2.

<sup>5</sup> AI, p.4. See also , JS3, para. 55.

<sup>6</sup> A/HRC/14/8, paras. 71.21, 71.28, 71.31, 71.34 and 71.76 and A/HRC/14/8/Add.1, p.2 and p.5.

<sup>7</sup> AI, p.1.

<sup>8</sup> JS1, p.4.

<sup>9</sup> JS3, para. 5.

<sup>10</sup> JS3, para. 7.

- 11 AI, p.3, HRW, p.2, MRG, p.4, JS2, pp.2-3, JS3, paras. 11 and 22-24, FWCC, paras. 4.1 and 4.3 and FWRM, paras. 3.2. See also, JS1, pp.2-7.
- 12 FWRM, para. 3.2.
- 13 JS3, para. 22.
- 14 A/HRC/14/8, paras., 71.73, 71.75 and 71.77-71.81 and A/HRC/14/8/Add.1, p.5.
- 15 JS3, paras. 7 and 19.
- 16 A/HRC/14/8, paras. 71.11, 71.18-71.21, 71.25 and 71.35 and A/HRC/14/8/Add.1, pp.2-3.
- 17 JS3, para. 10.
- 18 AI, p.1-2. HRW, p.2. JS1, p.6, JS3, paras. 15-17 and FWRM, paras. 4.1-4.2.
- 19 FWRM, paras. 4.1-4.2.
- 20 A/HRC/14/8, para. 71.13, see also para. 71.32 and A/HRC/14/8/Add.1, pp.1-2.
- 21 JS3, para. 17. See also, JS1, p.6.
- 22 JS3, para. 6.
- 23 HRW, p.2, AI, p.1, JS1, p.7, JS3, para. 18, FWRM, para. 4.3, FWCC, para. 6.4, JS2, pp.1-2.
- 24 JS3, para. 18 (i).
- 25 JS2, p. 2.
- 26 AI, p.2.
- 27 JS2, pp.1-2.
- 28 HRW, p.2.
- 29 HRW, p.2.
- 30 JS3, para. 18 (iii).
- 31 JS3, para. 50.
- 32 AI, p.4.
- 33 See also, ICAAD, para. 29.
- 34 A/HRC/14/8, paras. 71.21 and 71.36-71.40 and A/HRC/14/8/Add.1, p.2.
- 35 JS3, para. 37.
- 36 A/HRC/14/8, paras. 71.47-71.54 and A/HRC/14/8/Add.1, p.4.
- 37 JS3, para. 2 and HRW, p.1.
- 38 HRW, p.4. See also, AI, p.4.
- 39 A/HRC/14/8, para. 71.55 and A/HRC/14/8/Add.1, p.4.
- 40 JS3, para. 38.
- 41 ICAAD, para.3.
- 42 FWRM, para. 5.2. See also, JS3, para. 38.
- 43 FWRM, p.6.
- 44 MRG, recommendations page.
- 45 ICAAD, para. 31.
- 46 MRG, para. 4.
- 47 MRG, para. 9.
- 48 ICAAD, para. 32. See also, HRW, p.1.
- 49 ICAAD, paras. 35-36.
- 50 ICAAD, para. 37.
- 51 AI, p.4.
- 52 A/HRC/14/8, para. 71.9, 71.48 and 71.50-71.52 and A/HRC/14/8/Add.1, p2 and p.4.
- 53 HRW, p.2. See also, AI, pp. 3-4.
- 54 JS3, para. 29.
- 55 HRW, p.2. See also, AI, pp. 2-3.
- 56 AI, p.4.
- 57 AI, p.1.
- 58 HRW, p.5.
- 59 AI, p.5.
- 60 AI, p.3.
- 61 JS3, para. 33.
- 62 A/HRC/14/8, paras. 71.70 and 71.94 and A/HRC/14/8/Add.1, pp.4-5.
- 63 JS3, para. 34.
- 64 ICAAD, paras. 3-13 and FWCC, paras. 2.1-3.7.
- 65 A/HRC/14/8, paras. 71.56, 71.66-71.67 and A/HRC/14/8/Add.1, p.4.

- <sup>66</sup> JS3, para. 39.  
<sup>67</sup> ICAAD, para. 9.  
<sup>68</sup> ICAAD, para. 11.  
<sup>69</sup> FWCC, para. 2.7.  
<sup>70</sup> FWCC, para. 2.8.  
<sup>71</sup> FWCC, para. 3.4.  
<sup>72</sup> ICAAD, para. 14.  
<sup>73</sup> FWCC, p. 6, recommendation 1.  
<sup>74</sup> FWCC, p. 6, recommendation 6.  
<sup>75</sup> FWCC, p. 6, recommendation 7.  
<sup>76</sup> FWCC, p. 7, recommendation 9.  
<sup>77</sup> JS3, para. 41.  
<sup>78</sup> A/HRC/14/8, para. 71.69 and A/HRC/14/8/Add.1, p.4.  
<sup>79</sup> JS3, para. 40.  
<sup>80</sup> JS3, para. 40.  
<sup>81</sup> GIEACPC, p.1.  
<sup>82</sup> HRW, p.3.  
<sup>83</sup> A/HRC/14/8, para. 71.21, 71.84-71.89 and 71.91-71.92 and A/HRC/14/8/Add.1, p. 3 and p.5.  
<sup>84</sup> A/HRC/14/8, para. 71.17 and 71.89 and A/HRC/14/8/Add.1, p.2 and p.5.  
<sup>85</sup> JS3, para. 20.  
<sup>86</sup> AI, p.2.  
<sup>87</sup> AI, p. 5.  
<sup>88</sup> HRW, p.5.  
<sup>89</sup> JS3, para. 51.  
<sup>90</sup> AI, p.5.  
<sup>91</sup> HRW, p.5.  
<sup>92</sup> A/HRC/14/8, para. 71.48-71.53 and A/HRC/14/8/Add.1, p.4.  
<sup>93</sup> AI, p.1.  
<sup>94</sup> HRW, p.2.  
<sup>95</sup> JS3, para. 18 (ii).  
<sup>96</sup> AI, p.4.  
<sup>97</sup> FWRM, para. 3.8.  
<sup>98</sup> FWCC, p. 6, recommendation 4.  
<sup>99</sup> JS3, para. 49.  
<sup>100</sup> JS3, para. 35.  
<sup>101</sup> A/HRC/14/8, para. 71.72 and A/HRC/14/8/Add.1, p.5.  
<sup>102</sup> JS3, para. 36.  
<sup>103</sup> ICAAD, para. 42.  
<sup>104</sup> AI, p.3.  
<sup>105</sup> AI, p.3.  
<sup>106</sup> JS3, para. 22.  
<sup>107</sup> A/HRC/14/8, paras. 71.73, 71.75 and 71.77-71.81 and A/HRC/14/8/Add.1, p.5.  
<sup>108</sup> JS3, para. 22.  
<sup>109</sup> JS2, p.3.  
<sup>110</sup> JS3, para. 24. See also, JS2, p.3.  
<sup>111</sup> JS3, para. 23.  
<sup>112</sup> JS2, p.2.  
<sup>113</sup> JS2, p.2.  
<sup>114</sup> HRW, p.3.  
<sup>115</sup> FWRM, para. 3.8.  
<sup>116</sup> JS2, pp.2-3.  
<sup>117</sup> AI, p.3.  
<sup>118</sup> FWRM, para. 3.8, p. 4.  
<sup>119</sup> HRW, p.3.  
<sup>120</sup> JS3, paras. 25 and 27 (i) (section on human rights defenders and civil society).  
<sup>121</sup> JS2, p.2.

- 122 FWCC, para. 4.1.  
123 JS2, p. 4, recommendations.  
124 JS2, p. 4, recommendations.  
125 JS3, para. 26.  
126 A/HRC/14/8, paras. 71.28, 71.33, 71.34, 71.73 and 71.76 and A/HRC/14/8/Add.1, p.3 and p.5.  
127 FWRM, para. 3.5.  
128 FWRM, para. 3.4.  
129 HRW, p.1.  
130 JS3, para. 27, section on freedom of association and assembly.  
131 FWRM, para. 3.5.  
132 JS3, para. 27, section on freedom of association and assembly.  
133 HRW, p.1.  
134 HRW, pp.3-4.  
135 AI, p.3.  
136 AI, p.3.  
137 A/HRC/14/8, paras. 71.61-71.63 and 71.93 and A/HRC/14/8/Add.1, pp. 4-5.  
138 AI, p.1.  
139 AI, p. 2. See also, FWCC, para. 4.4.  
140 HRW, p.4.  
141 HRW, p. 5.  
142 AI, p.5.  
143 See, A/HRC/14/8, paras. 71.50 and A/HRC/14/8/Add.1, p.4.  
144 JS3, para. 53.  
145 AI, pp.2-3. See also, HRW, p.4.  
146 HRW, p.5.  
147 A/HRC/14/8, paras. 71.11, 71.18-71.21 and 71.25 and A/HRC/14/8/Add.1, pp. 2-3.  
148 JS3, para. 10.  
149 JS3, para. 8.  
150 FWRM, para. 5.1.  
151 AI, p.3. See also, JS1, p.6.  
152 AI, p.3.  
153 JS3, para. 14.  
154 HRW, p.5.  
155 AI, p.5.  
156 FWRM, p.6, recommendations section.  
157 MRG, para. 4.  
158 MRG, para. 5.  
159 A/HRC/14/8, para. 71.20 and A/HRC/14/8/Add.1, p.3.  
160 ICAAD, para. 31.  
161 A/HRC/14/8, para. 71.56 and A/HRC/14/8/Add.1, 4.  
162 ICAAD, para. 15.  
163 ICAAD, para. 21.  
164 ICAAD, para. 24.  
165 AI, p.3, FWCC, paras. 6.1-6.4, FWRM, p. 4, HRW, pp. 3-4, ICAAD, paras. 23 and 25, JS1, pp. 1-7, JS3, paras. 43-45.  
166 JS1, p.1 and see also pp. 2-7.  
167 HRW, p.3.  
168 AI, p.3.  
169 FWCC, para. 6.1.  
170 JS1, p.4.  
171 JS1, p.2.  
172 FWCC, para. 6.1.  
173 FWCC, p. 7, recommendation 11.  
174 AI, p.5.  
175 AI, p.3.  
176 A/HRC/14/8, para. 71.97 and A/HRC/14/8/Add.1, p.5.

- <sup>177</sup> AI, p.1.  
<sup>178</sup> JS3, para. 46.  
<sup>179</sup> JS3, para. 48.  
<sup>180</sup> A/HRC/14/8, para. 71.10 and A/HRC/14/8/Add.1, p.2.  
<sup>181</sup> JS3, para. 42.  
<sup>182</sup> FWCC, para. 5.1.  
<sup>183</sup> JS3, para. 42.  
<sup>184</sup> MRG, recommendations page.  
<sup>185</sup> MRG, recommendations page.  
<sup>186</sup> ICAAD, para. 30.  
<sup>187</sup> ICAAD, para. 30.  
<sup>188</sup> MRG, para. 10.  
<sup>189</sup> MRG, para. 11.  
<sup>190</sup> MRG, para. 3.
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